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PATENT APPLICATION
Docket No. 17357.2.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)	
	Nick Steele, et al.)	
Serial No.:	09/933,567)	Art Unit
Filed:	August 20, 2001)	2168
For:	BRANDING AND REVENUE SHARING MODULES FOR FACILITATING STORAGE, MANAGEMENT AND DISTRIBUTION OF CONSUMER INFORMATION)	
Confirmation No.:	7300)	
Customer No.:	22913)	
Examiner:	Robinson, Greta Lee)	

Pre-Appeal Brief Request for Review

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office action mailed November 1, 2007, Applicants hereby request review of the claim rejections under the pre-appeal brief review process outlined in Official Gazette Notice, 12 July 2005.

REMARKS

Claims 1, 3-5, 7-9, 11-13, and 63-71 are rejected in view of one or both of U.S. Patent 6,285,983 to Jenkins and U.S. Patent 6,029,141 to Bezos et al. [hereinafter “Bezos”]. The arguments below relate to the rejection of independent claim 1 under 35 U.S.C. §102 as being anticipated by Jenkins and the rejection of claim 3 under 35 U.S.C. §103 as being unpatentable over Jenkins in view of Bezos. Similar arguments may be made with respect to the other claims, but have been omitted due to the reduced length requirement of the Pre-Appeal Brief Request for Review.

Jenkins discloses a system wherein information is gathered about individual consumers through data mining and then stored in a central server. Some of this information is gathered from entities whose primary function is to collect such data, including ACNielsen and Information Resources, Inc. (“IRX”). Col. 4, lns. 42-45. Other data may be obtained using commercially available tools and algorithms. Col. 6, lns. 6-16. The data is analyzed to generate information about classes of consumers that may be useful to marketers, such as “buying habits, web browsing history, or household income.” Col. 4, lns. 57-58.

The information provided to marketers does not include any information regarding a specific consumer in order to protect consumer privacy. Col. 5, lns. 16-21 (“The class records 62 are preferably traceable to individual records 52 only by means of an index 54 securely stored on the secure server 22, thus ensuring the privacy of individual consumers 10.”).

Marketers that receive the class information may then generate a customized offer based on the information. The offer is then transmitted to the central server that transmits the offer to members of the class using an index relating each consumer to the class. Col. 5, lns. 22-44. Consumer responses to the offers are relayed to marketers by the server, again, without revealing information regarding the identity of the consumer. Col. 5, lns. 59-67 (“The consumer response is preferably also forwarded by the system 20 the marketer 30 that initiated the offer for order fulfillment or offer revision after removing consumer identification information....”).

As is readily apparent, Jenkins discloses a system that is substantially different from the invention of claim 1 and therefore fails to anticipate. The information provided

to the marketer in Jenkins relates to a class of consumers with no identifying information provided. Jenkins therefore fails to disclose the step of “...receiving requests from the exchanges at the host server for consumer profile information in specific information accounts...” as recited in claim 1.

Furthermore, the consumer in Jenkins does not authorize or request that the marketer access the data. Instead, the consumer information is mined and distilled into class information and distributed to marketers all without the consumer’s knowledge or consent. Jenkins therefore fails to teach or suggest the method of claim 1 “...wherein an exchange comprises a group of one or more servers that are authorized and configured to accept the consumer profile information from a particular information account at the request of the consumer...”

The Examiner has characterized consumer responses to offers in the system of Jenkins as satisfying the above element. Office Action Mailed November 1, 2007, pages 3-4. However, the consumer responses to offers are not described as anything other than responses. The responses do not include authorization for the release of consumer data to the marketer or anyone else. The consumer responses to the offers are forwarded to the marketer only “after removing consumer identification information.” Col. 5, lns. 59-67. Jenkins further states that offers are made by way of the system “even though the marketer has no knowledge of the identity of any particular consumer.” Col. 7, lns. 23-26.

Jenkins further fails to describe an exchange as recited in claim 1. Jenkins discloses only the functionality of a central server noted above, wherein consumer data is mined and then used to distill class information that is distributed to marketers without any identifying information. Jenkins does not define any sort of association between servers belonging to an exchange. The Examiner has characterized the sources of information, such as ACNielson, as exchanges. However, the central server of Jenkins does not perform the step of “receiving requests from the exchanges at the host server for consumer profile information in specific information accounts” with respect to ACNielson. Jenkins only describes ACNielson as a source of consumer data, not as a requester of information. Furthermore, Jenkins does not describe ACNielson as performing the step of “...transferring the consumer profile information from the host

server to a central data repository for storage in a plurality of information accounts associated with a plurality of different consumers, logically associated with a plurality of exchanges, each information account associated with at least one exchange....” The data stored in the central depository of Jenkins is associated with classes of consumers, not exchanges.

Furthermore, the method of Jenkins further does not include verifying whether a marketer is a member of the exchange with which the class information is associated. As noted above, the central server of Jenkins is not described as belonging to an exchange having the functionality recited in claim 1. Jenkins further fails to disclose that, for example, ACNielsen or the central server perform the step of “...responding to said requests by retrieving some or all of the consumer profile information from said central data repository and conveying some or all of the consumer profile information to the requesting exchange, provided that the information account storing the consumer profile information is associated with the requesting exchange....”

Applicants further assert that combination of Jenkins with Bezos, whether alone or in combination, fail to teach or suggest all of the elements of claim 3, which depends on claim 1, and therefore a prima facie case of obviousness has not been established.

Bezos teaches a system wherein an associate registers with a merchant. Col. 1, lns. 56-58. The associate provides marketing information for the merchant on the associate’s website. Col. 1, lns. 58-61. Customers click links on the associate’s website and are routed to the merchant’s website. The merchant tracks the origins of customers and compensates the associate for transactions involving consumers routed from the associate’s web site. Col. 1, ln. 66 – Col. 2, ln. 3.

Jenkins discloses transactions wherein an offer is sent from a marketer to a central server, which forwards the offer to customers generally targeted by the offer. Customer responses to the offers are sent to the central server and then forwarded to the marketer without customer information. Compensating, for example, the central server, for forwarding the customer response to the marketer, as in the system of Bezos, fails to remedy the abovenoted deficiencies of Jenkins with respect to claim 1.

Furthermore, compensating the associate in Bezos or the central server in Jenkins based on consumer acceptance of an offer does not constitute “maintaining a transaction

log recording utilization of each information account to allow for compensation to the information account's originating vendor or entity" as recited in claim 3. The associate in Bezos never "utilizes" an information account for a consumer: the consumer is simply routed to the merchant web site without ever providing any information to the associate. Compensation in Bezos is based on the referral of consumers, not on the use of consumer information.

Inasmuch as Jenkins and Bezos, whether alone or in combination, fail to teach or suggest each element of claims 1 and 3, the rejections under §102 and §103 are improper. Applicants therefore request that the Examiner's rejection be reversed.

Dated this 1st day of February, 2008.

Respectfully submitted,

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